

SERVICE DATE - AUGUST 22, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 397X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY—ABANDONMENT EXEMPTION—IN PIERCE COUNTY, WA

Decided: August 19, 2003

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.24-mile line of railroad between milepost 28.10 and milepost 28.34 near McMillan, in Pierce County, WA.¹ On February 26, 2003, a decision and notice of interim trail use or abandonment (NITU) was served reopening the proceeding and authorizing a 180-day period for the Pierce County Parks and Recreation Department to negotiate an interim trail use/rail banking agreement with BNSF for the right-of-way involved in this proceeding. The negotiating period ends August 25, 2003.

On July 28, 2003, BNSF filed a request for an extension of the negotiating period until February 23, 2004. BNSF states that the parties are unable to complete negotiations by the end of the negotiating period, and that an extension of time is necessary to finalize negotiations.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).² Accordingly, the NITU negotiating period will be extended to February 23, 2004.³

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ Notice of the exemption was served and published in the Federal Register on January 28, 2003 (68 FR 4271-72).

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

³ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—In Jackson, Victoria and Wharton Counties, TX, STB Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

It is ordered:

1. BNSF's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to February 23, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary